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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

DISABILITY RIGHTS OREGON,
METROPOLITAN PUBLIC DEFENDER
SERVICES, INC., and A.J. MADISON,

Plaintiffs,

v.

PATRICK ALLEN, in his official capacity as head of the Oregon Health Authority, and DOLORES MATTEUCCI, in her official capacity as Superintendent of the Oregon State Hospital,

Defendants,

and

LEGACY EMANUEL HOSPITAL & HEALTH CENTER d/b/a UNITY CENTER FOR BEHAVIORAL HEALTH LEGACY HEALTH SYSTEM, PEACEHEALTH, and PROVIDENCE HEALTH & SERVICES,

Intervenors.

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CAS/mm8/619947761

Case No. 3:02-cv-00339-MO (Lead Case)
Case No. 3:21-cv-01637-MO (Member Case)
Case No. 6:22-CV-01460-MC (Member Case)

DECLARATION OF DEREK WEHR

JAROD BOWMAN, JOSHAWN DOUGLAS-SIMPSON,

Plaintiffs,

v.

DOLORES MATTEUCCI, Superintendent of the Oregon State Hospital, in her individual and official capacity, PATRICK ALLEN, Director of the Oregon Health Authority, in his individual and official capacity,

Defendants,

and

LEGACY EMANUEL HOSPITAL & HEALTH CENTER d/b/a UNITY CENTER FOR BEHAVIORAL HEALTH LEGACY HEALTH SYSTEM, PEACEHEALTH, and PROVIDENCE HEALTH & SERVICES,

Intervenors.

LEGACY EMANUEL HOSPITAL & HEALTH CENTER d/b/a UNITY CENTER FOR BEHAVIORAL HEALTH; LEGACY HEALTH SYSTEM; PEACEHEALTH; and PROVIDENCE HEALTH & SERVICES OREGON,

Plaintiffs,

v.

PATRICK ALLEN, in his official capacity as Director of Oregon Health Authority,

Defendant.

Case No. 3:21-cv-01637-MO (Member Case)

Case No. 6:22-CV-01460-MC (Member Case)

I, Derek Wehr, hereby declare:

1. I am the Deputy Superintendent of the Oregon State Hospital (OSH) at its Salem campus. During my 29-year career with the State of Oregon, I have served OSH for 25 years in the following roles: Deputy Superintendent, Director of Performance Improvement, Forensic

Unit Director, Psychiatric Social Worker, Transformation Leader, Community Outreach Specialist, Lean Leader, Mental Health Therapist, and Mental Health Therapy Technician. I hold a bachelor's degree in Psychology from Western Oregon University and a master's degree in Social Work from Portland State University.

2. I make this declaration based upon a combination of personal knowledge and in reliance upon records which are regularly maintained in the ordinary course of business.

3. My job duties include, among other things: (a) oversight of hospital occupancy management on both OSH campuses; (b) oversight of the OSH Admissions Department; (c) oversight of the six specialized programs on the OSH Salem and Junction City Campuses that govern 24 in-patient psychiatric units licensed as Hospital Level of Care and six behavioral health units licensed as Secure Residential Treatment Programs; and (d) serving as acting Superintendent of OSH when the current Superintendent is away from the office.

4. I have reviewed the Declaration of Ron Lagergren filed at ECF No. 317. Paragraph 2 of this declaration states: "Unity has seen four patients who were released from OSH pursuant to the September 1, 2022, injunction order in this case." This statement is not true.

5. Paragraphs 3-6 of Mr. Lagergren's Declaration makes representations as to each of these four patients' discharges from OSH. The Declaration gives enough information about each patient for OSH to have determined the patient's identity, and to examine the nature of the discharges.

6. None of these patients were discharged pursuant to this Court's September 1, 2022, Order. Rather, they were all determined "never able" by a forensic evaluator in the Forensic Evaluation Services division at OSH and discharged in the ordinary course based on that determination. This Court's September 1 order had no bearing on their discharges.

7. Paragraph 3 of Mr. Lagergren's Declaration refers to a patient who was at OSH from November 22, 2021, until October 19, 2022. That patient was discharged after he was found "never able" (to aid and assist) by OSH. Following a civil commitment order, this patient

is now admitted at OSH pursuant to its expedited admission policy. OSH has carefully reviewed this situation; in the future, when OSH has facts sufficient to warrant civil commitment and facts satisfying the expedited admissions policy, OSH will take steps to have the patient civilly committed prior to discharge and will cause the patient to remain admitted pursuant to its expedited admission policy.

8. Paragraph 4 of Mr. Lagergren's Declaration refers to a patient who was at OSH from December 17, 2020, until November 2, 2022. He was discharged after he was found "never able" by OSH. The "never able" determination was contested, and the state circuit court issued a transport order for a court appearance for November 3, 2022. His case was dismissed on November 4, 2022.

9. Paragraph 5 of Mr. Lagergren's Declaration refers to a patient who was at OSH from May 6, 2021, until October 31, 2022. He was discharged after he was found "never able" by OSH. The "never able" determination was contested, and the state court issued a transport order for a court appearance on October 28, 2022. His case was dismissed on October 31, 2022.

10. Paragraph 6 of Mr. Lagergren's Declaration refers to a patient who was at OSH from June 4, 2021, until November 4, 2022. He too was discharged from OSH after he was found "never able" by OSH.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED on November 21, 2022.

s/ Derek Wehr
DEREK WEHR